

Delegation Order No. 30-4 (formerly DO-220, Rev. 3)

Effective Date: October 1, 2009

Claims of Executive Privilege in Federal Courts

(1) **Authority:** To claim executive privilege with respect to Internal Revenue Service records or information in matters before the United States Court of Federal Claims, the United States Tax Court and other federal courts.

a. Certain federal courts recognize claims of executive privilege by the head of the agency as the sole basis for protecting internal or inter-agency records or information that reflect recommendations, advisory opinions, deliberations, and other similar matters, comprising the process by which governmental decisions and policies are formulated.

b. Executive privilege may be claimed only for those internal or inter-agency records or information that are predecisional and deliberative. Any discretionary release of predecisional and deliberative material will be made only after full and deliberate consideration of the applicable institutional (*i.e.*, public accountability, safeguarding national security, law enforcement effectiveness, and candid and complete deliberations), commercial, and personal privacy interests that could be implicated by disclosure of the information. Any claim of executive privilege will be made only after coordination with the appropriate function(s).

c. The authority to claim states secret privilege is not delegated by this order. The states secret privilege generally encompasses records or information that, if disclosed, would compromise national security or international relations.

(2) **Delegated to:** Deputy Associate Chief Counsel (Procedure & Administration)

(3) **Redelegation:** This authority may not be redelegated.

(4) **Sources of Authority:** Treasury Order 150-10

(5) To the extent that any action previously exercised consistent with this Order may require ratification, it is hereby affirmed and ratified. This order supersedes Delegation Order No. 220 (Rev. 3).

(6) Signed: Douglas H. Shulman, Commissioner of Internal Revenue